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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,573	11/22/2003	Belle L. Chou	SHENW.PT4	3254

24943 7590 02/18/2011

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

EXAMINER	
VU, JAKE MINH	

ART UNIT	PAPER NUMBER
1618	

NOTIFICATION DATE	DELIVERY MODE
02/18/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pt_docket@iplg.com

Office Action Summary	Application No.	Applicant(s)	
	10/719,573	CHOU, BELLE L.	
	Examiner	Art Unit	
	JAKE M. VU	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) *24-31* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/19/2010, 06/09/2010, 03/05/2010*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of Applicant's Request for Continued Examination filed on 03/01/2010; and Information Disclosure Statements filed on 11/19/2010, 06/09/2010, and 03/05/2010.

- Claims 1-31 are pending in the instant application.
- Claims 24-31 have been previously withdrawn from consideration.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/01/2010 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by USALA (US 5,236,703) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009, 08/21/2009 and as discussed below.

Applicant argues that it is NOT "inherent" that Usala teaches, discloses or suggests a layer formed with zero amounts. Usala must be considered in its entirety, including disclosures that teach away from the claims. Examiner has not shown that the claimed glove material formed without the agent necessarily flows from the teachings of the applied prior art". (MPEP Section 21 12) Usala provides no inherency in a glove material formed "without" the antimicrobial agent and to the contrary, is inherently teaching some amount for either a controlled release or preventing a nidus of infection while in storage. The cited lines of Usala teach "different amounts" and "no release". This is not the equivalent of "without". In fact, when reading "no release" in context with the disclosure of Usala, the "no release" substrate is formed by "using aged mixtures in which substantially all the povidone-iodine is chemically bound with the latex. Such a layer, while not releasing the povidone-iodine upon contact with polar solutions, will nonetheless prevent a nidus of infection from developing in storage or in use."(col. 4, lines 45-53). Applicant therefore disagrees with Examiner since Usala's "different amounts" and "no release" do not teach the claimed layer is formed "without" or "free of' the antimicrobial agent of the first layer. Further, Usala states, this "no release substrate" as described above in terms of chemically binding the povidone-iodine with the latex, can be placed on the inner surface, for people having "a mild allergic reaction

to povidone iodine". There is nothing to teach, disclose or suggest that the povidone-iodine does not exist in the substrate. To the contrary, a no release substrate in which the povidone-iodine is chemically bound with the latex is disclosed in Usala. Again, it does not necessarily mean that Usala discloses a layer "without" any povidone-iodine, but rather only states a "no release" layer, for those with a "allergic reaction". It is apparent by the definition of "no release" that the substrate is holding an amount from being released, i.e. the existing povidone-iodine within the substrate. It is rather inherent that Usala teaches a substrate povidone-iodine. It is therefore not inherent that the second layer is structurally formed of a glove material "without the antimicrobial agent".

The Examiner finds this argument unpersuasive, because it would be wasteful to add any antimicrobial agent, such as povidone-iodine, in a "no-release" layer for people having a mild allergic reaction to povidone-iodine. Additionally, if any antimicrobial agent is released accidentally, then an allergic reaction could result in a potential law suit. Thus, USALA's inner layer has to inherently contain no antimicrobial agent.

Applicant argues that the claimed limitation of "resist contact between the anti-microbial agent with the hand" is further not addressed in the Advisory Action and neither is it disclosed by Usala. Since the povidone-iodine exists, chemically bound, in the substrate, it is not taught, disclosed or suggested how it resists "contact" with the hand since the substrate is contacting the hand. Rather, the Advisory Action states that Usala allegedly "prevents allergic reaction", which again, is NOT what the claims recite. The claims require "resist contact between the antimicrobial agent with the hand". Further, neither does Usala actually disclose "prevent allergic reaction". Usala simply

discloses for those with a "mild allergic reaction" the "no release" substrate can be on the inside, meaning those with a mild allergic reaction may be better suited to a no release inner surface in which the povidone-iodine is chemically bound with the latex, as opposed to a person with a severe allergic reaction.

The Examiner finds this argument unpersuasive, because as discussed above, it would be wasteful to add any antimicrobial agent, such as povidone-iodine, in a "no-release" layer for people having a mild allergic reaction to povidone-iodine. Additionally, if any antimicrobial agent is released accidentally, then an allergic reaction could result in a potential law suit. Thus, USALA's inner layer has to inherently contain no antimicrobial agent. Since USALA's inner layer is to prevent exposure to the antimicrobial, then USALA's inner layer meets the limitation of "resist contact between the anti-microbial agent with the hand".

Applicant argues that the "no release substrate inner layer" of Usala contains the antimicrobial agent of the first layer, because it is made by "using aged mixtures in which substantially all the povidone-iodine is chemically bound with the latex." (Usala, col. 4, lines 48-50). The "no release" layer of Usala also contains the same antimicrobial (povidone-iodine) layer of the first layer, and thus Usala does not teach that one of its layers closer to the skin is configured to resist penetration of the anti-microbial agent from the other layer and to resist contact with the hand. Usala thereby teaches away from a second layer without the antimicrobial agent from the first layer by teaching that the "povidone-iodine is chemically bound" within the material. Irregardless of placing the "no release substrate on the inner surface" for those with "mild allergic reactions",

the fact remains that there is indeed povidone iodine still mixed within the layer and this does NOT teach that the "second layer is formed" "without the antimicrobial agent from the first layer".

The Examiner finds this argument unpersuasive, because USALA's disclosure of "using aged mixtures in which substantially all the povidone-iodine is chemically bound with the latex." (Usala, col. 4, lines 48-50) is an "alternative" embodiment (see col. 4, line 41) to prevent a nidus of infection from developing in storage or in use, wherein the "outer layer may be formed by conventional formulations and techniques" (see col. 4, line 35-41) for a minimal or no release layer, which would inherently have no antimicrobials.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8, 10, 13-17 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), and WOLLMANN et al (US 3,793,059) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009, 08/21/2009 and as discussed below.

Claims 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), WOLLMANN et al (US 3,793,059) and CHOU (US 2003/0204893) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009, 08/21/2009 and as discussed below.

Applicant argues that Milner has been cited for showing a glove incorporating an antimicrobial agent into the glove material. However, Milner fails in combination with the references to teach the "first layer" and the "second layer" glove structure as claimed. Contrary to Examiner's assertion, as explained above, Usala does not provide for the deficiencies of Milner. Usala actually does not teach a "a second layer formed of a glove material without the antimicrobial agent from the first layer therein the second layer, to be closer to a hand than the first layer, when the glove is worn on the hand, the second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand in part". Examiner cites Usala's "no release substrate would inherently resist penetration by the anti-microbial agent", however, for reasons discussed above Usala does indeed contain povidone iodine within the material. The povidone iodine substrate of Usala, while having "no ascertainable release" nevertheless does not teach that it is "without the antimicrobial anent form the first layer" and further cannot teach resisting contact of the agent with the hand when it is chemically bound throughout the substrate. Neither

does a combination of these references with Fechner or Wollmann provide for the claimed limitations of claim 1.

The Examiner finds this argument unpersuasive, because as discussed above, Usala does not indeed contain povidone iodine within the material or at least obviously does not indeed contain povidone iodine within the material to prevent an allergic reaction from occurring.

Applicant argues that Fechner teaches that Triclosan may have allergic reactions, it also teaches of other anti-bacterially and fungicidally acting additives for polymers without harmful side effects. Thus one skilled in the art of making gloves with Triclosan in it would naturally think of using Fechner's new compound to contact the hand as opposed to the Applicant's claimed "second layer formed of a glove material without the antimicrobial agent from the first layer therein the second layer" as configured to resist penetration by the antimicrobial agent and contact with the hand.

The Examiner finds this argument unpersuasive, because one skilled in the art of making gloves with Triclosan in it would naturally think of using Fechner's new compound to contact the hand and/or an inner layer with no antimicrobial.

Applicant argues that Chou is used to allegedly show the use of aloe Vera and other dependent limitations, yet, the missing elements which Usala fails to provide are still not provided. There is no teaching of a disposable protective glove having an "antimicrobial agent" of a "first layer" and a "second layer formed of a glove material without the antimicrobial agent from the first layer therein the second layer, to be closer to a hand than the first layer, when the glove is worn on the hand, the second layer

configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand."

The Examiner finds this argument unpersuasive, because USALA as discussed above, USALA does meet these limitations.

Telephonic Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAKE M. VU whose telephone number is (571)272-8148. The examiner can normally be reached on Mon-Tue and Thu-Fri 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jake M. Vu/
Primary Examiner, Art Unit 1618